

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 297 – SB 265

March 6, 2017

SUMMARY OF ORIGINAL BILL: Reduces simple possession of marijuana from a class A misdemeanor to a class C misdemeanor punishable only by \$50 fine if the amount is one-eighth ounce or less.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease Local Revenue – \$583,800

Decrease Local Expenditures – \$175,200

SUMMARY OF AMENDMENT (004667): Rewrites subsection (g) in section 2 of the bill to limit the reduced offense to one-eighth ounce of marijuana in plant form, not a resin, compound, derivative, concentrate, or oil; and reduces simple possession to a class B misdemeanor punishable by \$100 fine or incarceration up to six months, or both.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Decrease Local Revenue – \$437,900

Decrease Local Expenditures – \$438,000

Assumptions for the bill as amended:

- Tennessee Code Annotated § 39-17-418 punishes simple possession of a controlled substance as a class A misdemeanor. Simple possession of marijuana is one-half ounce or less.
- Statistics from the Administrative Office of the Courts show an average of 1,946 class A misdemeanor convictions per year under Tenn. Code Ann. § 39-17-418 over the last five years. These statistics represent convictions at the state court level. It is assumed that only 10 percent of misdemeanor convictions are at the state court level. It is assumed that there are a total of 19,460 convictions (1,946 x 10) per year for violations of Tenn. Code Ann. § 39-17-418.

- However, simple possession applies to all schedules of controlled substances. It is assumed that 60 percent of the 19,460 convictions ($19,460 \times 0.6 = 11,676$ convictions) relate to marijuana.
- Further, not all convictions involve an amount less than one-eighth ounce. It is assumed that 25 percent ($11,676 \text{ convictions} \times 0.25 = 2,919$ convictions) involve possession of one-eighth ounce or less.
- The proposed legislation would authorize punishment by a fine up to \$100, incarceration up to six months, or both.
- The potential punishment for a simple possession is up to 11 months, 29 days in jail, a fine up to \$2,500, or both. Rarely will a person convicted serve jail time for simple possession, much less 11 months, 29 days, or pay the maximum \$2,500 fine.
- It is assumed that 75 percent ($2,919 \times 0.75 = 2,189$) of offenders will be punished by fine only and 25 percent ($2,919 \times 0.25 = 730$) will be punished by fine and time served.
- It is assumed that the average fine for simple possession is currently \$250, which most defendants pay in full. The proposed legislation will result in each defendant paying a fine of \$150 ($\$250 - \100) less than the current fine. The proposed legislation will result in a recurring decrease of local revenue estimated to be \$437,850 ($2,919 \text{ convictions} \times \150).
- It is assumed that the average time served will be 10 days. The estimated 2017 cost per inmate per day for local jails is \$60.00.
- The proposed legislation will result in each defendant serving 10 days fewer than under current law. The proposed legislation will result in a recurring decrease of local incarceration costs estimated to be \$438,000 ($730 \text{ convictions} \times \$60 \text{ per day} \times 10 \text{ days}$).
- The proposed legislation does not create any new cases, but merely changes the misdemeanor classification for some current offenses. It is assumed that the courts, district attorneys, and public defenders can accommodate the impact to their workload within their existing resources.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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